



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

JAN 26 2004

(AE-17J)

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Thomas A. Trebonik
Perma-Fix of Dayton, Inc.
300 South West End Avenue
Dayton, Ohio 45427

Re: Finding of Violation
Perma-Fix of Dayton, Inc.
Dayton, Ohio

Dear Mr. Trebonik:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Finding of Violation (FOV) to Perma-Fix of Dayton, Inc. (you). We find that you have violated Section 112, 114, and 501 *et seq.*, of the Clean Air Act, 42 U.S.C. §§ 7412, 7414, and 7661 *et seq.*, at your Dayton, Ohio facility.

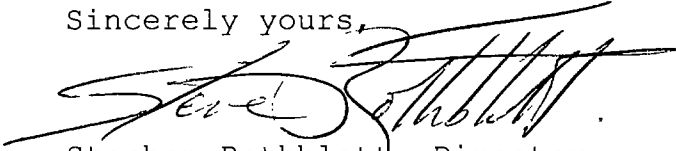
We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contact in this matter is Brian Dickens. You may call him at (312) 886-6073 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steve Rothblatt", with a large, sweeping flourish extending from the end of the name.

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center

John Paul, Director
Regional Air Pollution Control Agency
Montgomery County Health Department

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	
)	
Perma-Fix of Dayton, Inc.)	FINDING OF VIOLATION
300 South West End Avenue)	
Dayton, Ohio 45427)	EPA-5-04-OH-05
)	
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Perma-Fix of Dayton, Inc. (Perma-Fix) is violating Sections 112, 114, and 501 *et seq.* of the Clean Air Act, 42 U.S.C. §§ 7412, 7414, and 7661 *et seq.* Specifically, Perma-Fix is violating the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO), subpart DD at 40 C.F.R. § 63.680; the Recordkeeping, Inspections, Monitoring, and Entry section of the Clean Air Act; and the Permit Programs section of the Clean Air Act, as follows:

Regulatory Authority

1. The NESHAP regulations for OSWRO, effective July 1, 1996, apply to the owner or operator of a plant site that:
 - (a) is a major source of hazardous air pollutant (HAP) emissions as defined in 40 C.F.R. § 63.680(a)(1);
 - (b) receives "off-site material" as defined in 40 C.F.R. §§ 63.680(b) and 63.681; and
 - (c) has located at the site a waste management operation or recovery operation as specified in 40 C.F.R. § 63.680(a)(2), and defined in § 63.681.
2. The NESHAP at 40 C.F.R. § 63.683(b)(1) establish control requirements for off-site material management units that are part of an affected source. The NESHAP at 40 C.F.R. §§ 63.681 and 63.680(c)(1) define "off-site material management unit" and "affected source," respectively.

3. An off-site material management unit that is part of an affected source must meet the requirements of either 40 C.F.R. §§ 63.683(b)(1)(i), (ii), or (iii). An owner or operator complying with 40 C.F.R. § 63.683(b)(1)(i) must control air emissions from each off-site material management unit in accordance with the applicable standards specified in 40 C.F.R. §§ 63.685 through 63.689.
4. The NESHAP at 40 C.F.R. § 63.685(b) establish emission control requirements for "tanks" that are off-site material management units, as that term is defined in 40 C.F.R. § 63.681. Tanks must meet either Level 1 or Level 2 control depending on the tank's size and the off-site material's maximum hazardous air pollutant vapor pressure, according to Table 3 and Table 4 of 40 C.F.R. § 63, subpart DD.
5. Owners or operators controlling air emissions from tanks using Level 1 controls are required to equip tanks with a fixed roof and closure devices, or vent emissions through a closed-vent system to a control device, as prescribed in 63.685(c)(2)(i) and 40 C.F.R. §§ 63.902(b), or 40 C.F.R. § 63.685(c)(2)(ii), respectively.
6. Owners or operators controlling air emissions using Level 2 controls from a tank that is not equipped with a floating roof or that is not pressurized, are required to vent emissions through a closed-vent system to a control device, as prescribed in 40 C.F.R. § 63.685(d)(3).
7. The NESHAP at 40 C.F.R. § 63.693(f)(2) require owners or operators using vapor incinerator control devices to demonstrate that the control device achieves performance requirements of 40 C.F.R. § 63.693(f)(1) by either conducting a performance test or design analysis.
8. The NESHAP at 40 C.F.R. § 63.680(f) provide that certain general provisions of 40 C.F.R. part 63, subpart A, apply to subpart DD OSWRO facilities. Table 2 of 40 C.F.R. part 63, subpart DD specifies which subpart A requirements an OSWRO facility must meet.
9. The NESHAP at 40 C.F.R. § 63.5(b)(3), made applicable by Table 2 of 40 C.F.R. part 63, subpart DD, require the owner or operator to obtain written approval from the Administrator prior to constructing a new source.
10. The NESHAP at 40 C.F.R. § 63.7(a)(2), made applicable by Table 2 of 40 C.F.R. part 63, subpart DD, require the owner or operator to conduct and submit results of any performance

test required under 40 C.F.R. part 63, subpart DD, within 180 days after initial startup.

11. The NESHAP at 40 C.F.R. § 63.6(e)(3), made applicable by Table 2 of 40 C.F.R. part 63, subpart DD, require owners or operators to develop and implement a Startup, Shutdown, and Malfunction Plan.
12. The NESHAP at 40 C.F.R. § 63.695(c), require the owner or operator of a closed-vent system to monitor the closed-vent system for leaks upon initial startup and annually to demonstrate the closed-vent system operates with no defects or no detectable organic emissions.
13. The NESHAP at 40 C.F.R. § 63.695(e), require the owner or operator to monitor, calculate daily average values, and establish a minimum or maximum value for each monitored operating parameter to define the range of conditions at which the control device must be operated to continuously achieve applicable performance requirements.
14. The NESHAP at 40 C.F.R. § 63.680(e)(2), specifies that the owner or operator of an affected source that commenced construction or reconstruction on or after October 13, 1994, must achieve compliance with the provisions of 40 C.F.R. part 63, subpart DD, on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 C.F.R. § 63.6(b).
15. Section 502 of the Act, 42 U.S.C. § 7661a, published 57 FR 32295, July 21, 1992, prohibits an owner or operator of a major source from operating without a permit issued pursuant to Title V of the Act. The State of Ohio Title V operating permit program was granted approval from U.S. EPA on August 15, 1995, with an effective date of October 1, 1995. 60 Fed. Reg. 42045.
16. Section 114 of the Act, 42 U.S.C. § 7414, authorizes the Administrator to require any person who owns an emission source to submit any information the Administrator may reasonably require for the purposes of determining compliance with the Clean Air Act.

Statement of Facts

17. Perma-Fix owns and operates a facility located at 300 South West End Avenue, Dayton, Ohio.

18. The Perma-Fix facility in Dayton, Ohio emits hazardous air pollutants (HAP) as defined at 40 C.F.R. § 63.2.
19. Perma-Fix's facility receives "off-site material" as defined at 40 C.F.R. § 63.680(b).
20. Perma-Fix treats off-site material in equipment that is covered under Resource Conservation and Recovery Act permit number 05-57-0555 as a hazardous waste treatment, storage, and disposal facility. This operation is a waste management operation meeting the definition at 40 C.F.R. §§ 63.680(a)(2)(i) and 63.681.
21. Perma-Fix operates a recovery operation that re-refines used oil from off-site sources. The operation is regulated under 40 C.F.R. 279 subpart F - Standards for Used Oil Processors and Refiners. This operation is a waste management operation as defined at 40 C.F.R. §§ 63.680(a)(2)(vi) and 63.681.
22. Perma-Fix treats wastewater which is an off-site material in an operation that is exempted from regulation as a hazardous waste treatment, storage, and disposal facility under 40 C.F.R. § 264.1(g)(6) or 265.1(c)(10). This operation is a waste management operation meeting the definition at 40 C.F.R. §§ 63.680(a)(2)(ii) and 63.681.
23. On November 17, 2000, Perma-Fix began operating a biological wastewater treatment operation (bioplant) that is exempted from regulation as a hazardous waste treatment, storage, and disposal facility under 40 C.F.R. § 264.1(g)(6) or 40 C.F.R. § 265.1(c)(10). Nine (9) tanks: T-901A, T-901B, T-901C, T-801D, T-801E, BioSBR, BioVDR, Activated Sludge Tank, and Utility Clarifier Tank, are "off-site material management units" associated with the bioplant.
24. The initial startup of bioplant tanks T-801D, T-801E, BioSBR, BioVDR, Activated Sludge Tank, and Utility Clarifier Tank on November 17, 2000, resulted in the Perma-Fix plant site having a Potential to Emit greater than twenty-five (25) tons per year of hazardous air pollutants.
25. Tanks T-901A, T-901B, T-901C were added to the bioplant in November 2001, as part of the Bioplant Expansion.
26. The bioplant is subject to the NESHAP for OSWRO and is an "affected source," as defined in 40 C.F.R. § 63.680(c)(1), and a "new source," as defined in 40 C.F.R. § 63.680(e)(2).

27. Tanks T-801D and T-801E were taken out of service in April 2001. The Activated Sludge Tank and Utility Clarifier Tank were taken out of service in June 2002.
28. Tanks T-901A, T-901B, T-901C, T-801D, T801E, BioSBR, BioVDR, Activated Sludge Tank, and Utility Clarifier Tank were required to meet either Level 1 or Level 2 control upon initial startup, as prescribed in 40 C.F.R. § 63.685.
29. In a letter to Perma-Fix dated August 14, 2003, sent pursuant to Section 114 of the Act, U.S. EPA required Perma-Fix to submit a quantification of potential emissions from the biological treatment units by September 12, 2003. Perma-Fix did not submit the potential emissions nor did Perma-Fix request an extension of the due date.
30. Perma-Fix began construction of a regenerative thermal oxidizer in August 2002 and began operation on November 6, 2002. This regenerative thermal oxidizer is a vapor incinerator. A closed-vent system was simultaneously installed between bioplant tanks BioSBR and BioVDR, and the vapor incinerator.

Violations

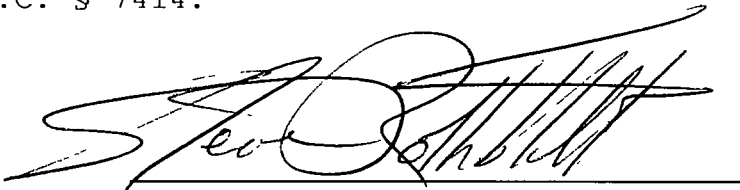
31. Perma-Fix failed to obtain written approval from the Administrator prior to constructing the bioplant, which is a new major affected source, as required by 40 C.F.R. § 63.5(b)(3).
32. Perma-Fix failed to develop a Startup, Shutdown and Malfunction Plan for the bioplant by November 17, 2000, as required by 40 C.F.R. § 63.6(e)(3).
33. Perma-Fix failed to keep relevant records since November 17, 2000, for startup, shutdown and malfunction of the bioplant, as required by 40 C.F.R. § 63.10(b)(2).
34. Perma-Fix failed to submit Startup, Shutdown and Malfunction Reports on a semiannual basis since January 30, 2001, as required by 40 C.F.R. §§ 63.697(a)(2) and 63.10(d)(5).
35. Perma-Fix failed to determine the maximum HAP vapor pressure for off-site material managed in tanks T-901A, T-901B, T-901C, T-801D, T-801E, BioSBR, BioVDR, Activated Sludge Tank, and Utility Clarifier Tank prior to placing off-site material in each tank, as required by 40 C.F.R. § 63.685(c)(1).

36. Perma-Fix failed to control emissions from tanks T-901A, T-901B, T-901C, from November 2001 to the present, by using Level 1 or Level 2 controls as required by 40 C.F.R. § 63.685(c)(2).
37. Perma-Fix failed to control emissions from tanks T-801D and T-801E, from November 2000 to April 2001, by using Level 1 or Level 2 controls as required by 40 C.F.R. § 63.685(c)(2).
38. Perma-Fix failed to control emissions from the Activated Sludge Tank and Utility Clarifier Tank from November 17, 2000 to June 2002, by using Level 1 or Level 2 controls as required by 40 C.F.R. § 63.685(c)(2).
39. Perma-Fix failed to control emissions from tanks BioSBR and BioVDR, from November 17, 2000 to November 6, 2002, by using Level 1 or Level 2 controls as required by 40 C.F.R. § 63.685(c)(2).
40. Perma-Fix failed to perform an initial performance test or design analysis on the vapor incinerator that controls emissions from bioplant tanks BioSBR and BioVDR within 180 days of November 6, 2002, as required by 40 C.F.R. § 63.693(f)(2).
41. Perma-Fix failed to monitor its closed-vent system, installed for the purpose of controlling emissions from bioplant tanks BioSBR and BioVDR, for leaks by November 6, 2002, as required by 40 C.F.R. § 63.695(c)(1)(i).
42. Perma-Fix failed to monitor its closed-vent system, installed for the purpose of controlling emissions from bioplant tanks BioSBR and BioVDR, for leaks by November 6, 2003, as required by 40 C.F.R. § 63.695(c)(1)(ii).
43. Perma-Fix failed to monitor the vapor incinerator that controls emissions from bioplant tanks BioSBR and BioVDR using continuous parameter monitoring since November 6, 2002, as required by 40 C.F.R. § 63.695(e)(1).
44. Perma-Fix failed to calculate daily average values for each monitored operating parameter used to monitor the vapor incinerator that controls emissions from bioplant tanks BioSBR and BioVDR since November 6, 2002, as required by 40 C.F.R. § 63.695(e)(2).
45. Perma-Fix failed to submit semi-annual reports on January 30, 2003 and July 30, 2003, summarizing excursions of

emissions from the vapor incinerator that controls emissions from bioplant tanks BioSBR and BioVDR, as required by 40 C.F.R. § 63.697(b)(4).

46. Perma-Fix failed to record a description of planned routine maintenance performed on the vapor incinerator that controls emissions from bioplant tanks BioSBR and BioVDR since November 2002, as required by 40 C.F.R. § 63.696(g).
47. Perma-Fix failed to submit an application to the State of Ohio for a Title V permit, as required by Section 502 of the Act, 42 U.S.C. § 7661a.
48. Perma-Fix failed to submit information concerning emissions from its biological treatment plant by September 12, 2003, pursuant to an information request issued under Section 114 of the Act, 42 U.S.C. § 7414.

1/26/2004
Date



Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-04-OH-05, by Certified Mail, Return Receipt Requested, to:

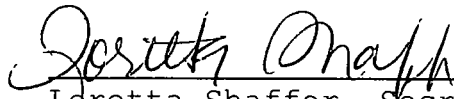
Perma-Fix of Dayton, Inc.
300 South West End Avenue
Dayton, Ohio 45427

I also certify that I sent copies of the Finding of Violation by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
PO Box 1049
Columbus, Ohio 43216

John Paul, Director
Regional Air Pollution Control Agency
Montgomery County Health Department
451 West Third Street
P.O. Box 972
Dayton, Ohio 45422

on the 28th day of January, 2004.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0330 0006 1467 0902



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
AIR AND RADIATION DIVISION
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DATE: 1/22/04

SUBJECT: Recommendation to Issue a Finding of Violation to
Perma-Fix of Dayton, Inc., Dayton, Ohio

FROM: George T. Czerniak, Chief
Air Enforcement and Compliance Assurance Branch

TO: Stephen Rothblatt, Director
Air and Radiation Division

I recommend that you issue a Finding of Violation (FOV) to Perma-Fix of Dayton, Inc. for violating the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO) at 40 C.F.R. part 63.680, and the Ohio Title V Operating Permit Program.

Specifically, Perma-Fix installed a biological treatment system in November 2000 that caused their Potential to Emit hazardous air pollutants to exceed major source levels. The material management units associated with the biological treatment system did not meet the control requirements of the NESHAP. Perma-Fix also failed to submit a Title V application after becoming a major source. Additionally, Perma-Fix failed to respond in a timely manner to an Information Request issued under Section 114 of the Clean Air Act. We discovered these violations through an Information Request response and through EPA's own modeling of the Perma-Fix processes.

State Representative Contacted: Joe Korcek, OEPA

Date: 1/22/04

By: William L. MacDowell

Attachment